

## REMARKS

The present application includes pending claims 1-48, all of which have been rejected.

By this Amendment, claims 10 and 21 have been amended.

Claims 1-4, 7, 8, 10-12, 14-27, 29-32, 35, 36 and 38 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2004/0261096 (“Matz”). Claims 5, 6, 13, 33 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of U.S. 2002/0166127 (“Hamano”). Claims 9 and 37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of U.S. 6,308,329 (“Takahashi”). Claims 28 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of U.S. 6,145,083 (“Shaffer”). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following:

### **I. Matz Does Not Anticipate Claims 1-4, 7, 8, 10-12, 14-27, 29-32, 35, 36 And 38**

The Applicants first turn to the rejection of claims 1-4, 7, 8, 10-12, 14-27, 29-32, 35, 36 and 38 as being anticipated by Matz. Claim 1 recites, in part, “the set top box circuitry at the first location causing the displaying, from the storage at the first location, of idle state media when no scheduled media is available.”

The previous Office Action acknowledges that “Matz does not explicitly teach the set top box circuitry causing the displaying from the storage, of idle state media when no scheduled media is available.” *See* August 3, 2007 Office Action at page 3. However, the current Office Action cites Matz at paragraph [0139] as disclosing this limitation. *See* November 15, 2007 Office Action at page 3.

Paragraph [0139] of Matz discloses the following:

In an embodiment, the client device substitutes blocked content with other content that is substantially equal in duration. Thus, for example, if a 30-second advertisement is blocked, the client device identifies and presents substitute content that is also approximately 30 seconds in duration. Similarly if, for example, a 30 minute program is blocked, substitute content is selected that has approximately a 30-minute duration.

Matz at [0139]. Matz also discloses screensavers. *See id.* at, e.g., [0139] and [0138].

Matz discloses, however, that a set top box 105 and a server 102 are at different locations. In particular, Matz discloses the following:

In another embodiment, the client device 105 is a set-top-box (STB). In this embodiment, the communication network 106 may be a satellite television broadcast network and the server 102 may be a head-end of a cable service provider. The cable service provider generally broadcasts programming, advertising, “walled garden” merchandising offers, and other media content. As mentioned above, the media content is broadcasted in the form of data streams 110, 134, and 136 and associated tags 112, 130, and 132, respectively to the STB 105.

Matz at [0049]. Thus, the server 102 (the cable service provider head-end) is at one location, while the client server 105, such as a set top box, is at another location. This arrangement is shown in Figure 1 of Matz.

Moreover, Matz discloses that the server 102, which is at a different location than the set top box 105, stores media.

FIG. 1 illustrates an exemplary operating environment 100 employing an embodiment of the present invention. A server device 102 communicates with one or more client devices, such as client device 104 and/or client device 105 [set top box], via a communication network 106. Server device 102 transmits media content, such as, but not limited to, video, audio, text, or executable programs, over the communication network 106 to be used by the client devices 104 and/or 105. Each of the client devices 104 and/or 105 has an output device, such as a computer

monitor 114, or a television screen 116, for presenting media content to the user.

**The server device 102 has memory 108 that stores media content** in the form of data streams 110, 134, and 136.

Matz at Paragraphs [0045]-[0046] (emphasis added). As noted above, the media streams are broadcasted to the set top box 105.

As demonstrated above, media is stored at the server 102, such as a cable head-end, and broadcasted to the set top box 105 at another location. The Office Action also cites Figure 3 of Matz. *See* November 15, 2007 Office Action at pages 2-3. However, a review of Figure 3 shows a “server” and a separate and distinct “client” having a “user input/output module.”

While Matz does disclose “screensavers,” the Office Action has not cited to anything that describes, teaches or suggests “**the set top box circuitry at the first location** causing the displaying, from the storage **at the first location**, of idle state media when no scheduled media is available.” Thus, for at least this reason, the Applicants respectfully request reconsideration of the rejection of claims 1-4, 7 and 8 as being anticipated by Matz.

Independent claim 10 recites, in part, “storing the idle state media **at the first location**; causing the displaying of the idle state media **through set top box circuitry at the first location** according to a user defined sequence, if no scheduled media is available.” Similarly, independent claim 15 recites, in part, “storing the media at **the first location**; . . . causing the displaying of the idle state media **through set top box circuitry at the first location** according to a user defined sequence, when no scheduled media is available.” Also, claim 29 recites, in part, “**the set top box circuitry at the first location** causing the displaying, from a storage **at the first location**, of idle state media when no scheduled media is available.” The Applicants

respectfully request reconsideration of the rejection of independent claims 10, 15, 29 and the claims that depend therefrom for at least the reasons discussed above with respect to claim 1.

**II. The Applicants Request Reconsideration Of The Remaining Rejections**

As noted above, claims 5, 6, 13, 33 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Metz in view of Hamano. Claims 9 and 37 stand rejected as being unpatentable over Matz in view of Takahashi, while claim 28 stands rejected as being unpatentable over Matz in view of Shaffer. The Applicants respectfully request reconsideration of these rejections for at least the reasons set forth above.

**III. Conclusion**

In general, the Office Action makes various statements regarding claims 1-38 and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to any of the pending claims for at least the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

Appln. No. 10/667,829  
Amendment Under 37 C.F.R. § 1.111  
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The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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